

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

WP(C).No. 32781 of 2007(C)

PETITIONER:

**MIHAD,AGED 24 YEARS
S/O. MOHAMMAED
KIZHAKKEPEEDIYAKKAL HOUSE, THRIPRANGODE P.O.,
TIRUR, MALAPPURAM DISTRICT.**

**BY ADV. SRI.K.SHIBILI NAHA
SMT.A.LOWSY**

RESPONDENTS:

- 1. THE DISTRICT COLLECTOR, MALAPPURAM,.**
- 2. S.I.OF POLICE TRIRUR REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.**
- 3. STATE OF KERALA REPRESENTED BY THE
SECRETARY,DEPARTMENT OF REVENUE,
THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER SRI.M.R.SABU

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14/11/2007, ALONG WITH WPC NO. 33172 OF 2007, THE COURT ON
20/11/2007 DELIVERED THE FOLLOWING:**

WPC NO.32781/07

APPENDIX

PETITIONER'S EXHIBITS

**EXT.P1: TRUE COPY OF THE ORDER OF THE ADDL.SESSIONS COURT,
MANJERI INCRL.R.P.36/07.**

**EXT.P2: TRUE COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT
DATED 22/9/2007.**

//TRUE COPY//

ANTONY DOMINIC, J.

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W.P.(C)Nos. 32781 & 33172 OF 2007
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Dated this the 20th day of November, 2007

J U D G M E N T

Ext.P2 order in these cases are under challenge. By these orders, 1st respondent has imposed value of Rs.35,000/- each and fine of Rs.25,000/- each on the respective petitioners in exercise of the powers under Rule 27 of the Protection of River Banks and Regulation of Removal of Sand Act and Rules, 2001. The impugned orders are identically worded and the basis of imposition of value and penalty is that the petitioners have violated Rule 29(8) of the aforesaid rules.

2. In Ext.P2 order of the District Collector it is stated that:

From this, it is evident that the vehicles involved in these cases were not seized at the time when they were engaged in the transportation of river sand.

3. Rule 27 of the rules provide that the Police or Revenue officials shall seize the vehicle used for transportation of sand in violation of the provisions of the Act and Rules. It is such vehicles, which are used for transportation and seized by the police or revenue officials which are liable for confiscation under Rule 27. If it is liable for such confiscation, then only the District Collector is authorized to levy the value and fine in lieu of such confiscation. Since it is obvious that the vehicles in these cases were not engaged in the transportation of river sand, in my view, Rule 27 is inapplicable.

4. Further, the finding that Rule 29(8) has been violated is also not borne out by the records. Rule 29(8) provides that those who purchase sand shall obtain pass and keep the same and shall not transport or keep the same at any place without the said pass. In this case, there is no allegation that the petitioners had purchased any quantity of sand from anybody. If such is the situation, I do not understand, how the 1st respondent has come to the conclusion that the petitioners have violated Rule 29(8).

5. For these reasons, I do not find any valid reason to sustain Ext.P2 order in both the cases. Accordingly Ext.P2 order in these cases will stand quashed.

Writ petitions are disposed of as above.

ANTONY DOMINIC, JUDGE

Rp